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PAULDING COUNTY, GEORGIA
PAULDING COUNTY COURTS
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Alpharetta, Georgia 30005

Cross Reference:
Deed Book 1728, Page 898

STATE OF GEORGIA

COUNTY OF PAULDING

AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR DARBY'S RUN

WHEREAS, McBride & Son Homes Atlanta, LLC, a Missouri limited liability company (hereafter referred to as the "Declarant"), recorded that certain Declaration of Covenants, Conditions, Restrictions, and Easements for Darby's Run on September 16, 2004, in Deed Book Deed Book 1728, Page 898 of the Paulding County, Georgia land records (hereafter referred to as the "Declaration");

WHEREAS, Darby's Run Homeowners' Association, Inc. is the Association defined and identified in the Declaration;

WHEREAS, pursuant to Article III, Section 2 of the Declaration, the Declarant is the sole Class B member of the Association;

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WHEREAS, pursuant to Article XII, Section 1(a) of the Declaration, the Declarant may unilaterally amend the Declaration at any time and from time to time for so long as Declarant is the Class B member of the Association;

WHEREAS, as of the date of this Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Darby's Run, the Declarant is the Class B member of the Association; and

NOW, THEREFORE, the Declaration and all exhibits thereto are hereby stricken in their entirety and the following is simultaneously substituted therefor:

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AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR DARBY'S RUN

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- EXHIBIT "B" - ADDITIONAL PROPERTY
- EXHIBIT "C" - BYLAWS

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AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS

FOR DARBY'S RUN

ARTICLE I

DEFINITIONS

1.1. Additional Property means the property described in Exhibit "B" attached hereto, which is incorporated herein by this reference.

1.2. Association means Darby's Run Homeowners' Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

1.3. Board or Board of Directors means the elected body responsible for the management and operation of the Association.

1.4. Bylaws mean the Bylaws of Darby's Run Homeowners' Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference. Any prior bylaws of Darby's Run Homeowners' Association, Inc. are hereby revoked.

1.5. Common Property means any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners, or land adjacent thereto which is intended for the common use and enjoyment of the Owners, or any other land to which the Association has occupancy or use rights, including without limitation:

(a) any park, open space, street (until such time as accepted by a municipality or other government agency), subdivision entrance area and monuments, street lights (until such time as accepted by a municipality, other government agency, or utility); and

(b) any sanitary or storm water facilities, including any detention/retention pond not located on a Lot (until such time as accepted by a municipality or other government agency).

1.6. Community or Darby's Run means all property subjected and annexed to this Declaration.

1.7. Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board.

1.8. Declarant means McBride & Son Homes Atlanta, LLC, its successors or assigns.

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1.9. Declaration means this Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Darby's Run.

1.10. Effective Date of this Declaration means the date that this Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Darby's Run is recorded in the Paulding County, Georgia land records.

1.11. Eligible Mortgage Holder means a holder of a first mortgage secured by a Lot who has requested notice of certain items under Article XV of this Declaration.

1.12. Lot means a portion of the Community intended for ownership and use as a single-family dwelling site as permitted in this Declaration and as shown on the plats for the Community recorded in the Paulding County, Georgia land records.

1.13. Mortgage means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation against a Lot.

1.14. Mortgagee or Mortgage Holder means the holder of any Mortgage.

1.15. Occupant means any Person occupying all or any portion of a dwelling or other property located within the Community for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

1.16. Owner means the record title holder of a Lot, whether one or more Persons, but shall not include a Mortgage Holder.

1.17. Person means any individual, corporation, firm, association, partnership, trust, or other legal entity.

1.18. Supplemental Declaration means an instrument recorded pursuant to Article III, Section 3.1 of this Declaration to annex and subject all or a portion of the Additional Property to the Declaration.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

2.1. Location and Description. The property subject to this Declaration is located in the 2nd District, 3rd Section of Paulding County, Georgia and being a part of Land Lot 550 and being more delineated by the following plats of survey which are specifically incorporated herein by this reference:

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Darby's Run – Phase I prepared by Carlton Rakestraw & Associates and recorded in Plat Book 43, Page 129 *et seq.* and Plat Book 45, Page 139 *et seq.* of the Paulding County, Georgia land records.

Darby's Run – Phase II prepared by Carlton Rakestraw & Associates and recorded in Plat Book 45, Page 90 *et seq.* of the Paulding County, Georgia land records.

2.2. Additional Property. All or a portion of the Additional Property may be annexed and subjected to this Declaration as set forth in Article III, Section 3.1 hereof.

ARTICLE III

DECLARANT RIGHTS

In addition to any other rights of the Declarant set forth in the Declaration or Bylaws, the Declarant reserves the rights included within this Article.

3.1. Annexation of Additional Property. Until all of the Additional Property described on Exhibit "B" has been annexed and subjected to this Declaration, or ten years from the Effective Date of this Declaration, whichever is earlier, the Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." Such annexation shall be accomplished by recording a Supplemental Declaration describing the property to be annexed. Such Supplemental Declaration shall not require the consent of the Lot Owners but shall require the consent of the owner of the property to be annexed, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Nothing in this Declaration shall be construed to require the Declarant to acquire, annex, or develop any of the property described in Exhibit "B."

3.2. Construction, Marketing and Sales. Declarant and any builder authorized by the Declarant may maintain and carry on without fee or charge upon the Common Property or any Lot owned by the Declarant as, in the sole discretion of the Declarant, may be reasonably required, convenient, or incidental to the construction or improvement of the Lots or Common Property and the sale of the Lots, including, but not limited to, business offices, signs, model homes, construction trailers, and sales offices. In addition, if reasonably required, the Declarant and builders may park vehicles in areas other than driveways or garages.

3.3. Board of Directors. The Declarant shall have the right to appoint and remove directors and officers of the Association until the earlier of the following to occur: (a) seven years from the Effective Date of this Declaration; (b) the date on which ninety percent (90%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person for residential use; or (c) the voluntary surrender by Declarant, in writing, of the authority to appoint and remove the Association's directors and officers. The Declarant shall

thereafter retain the right to veto any action of the Board of Directors until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person for residential use

3.4. Amendments. Until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person for residential use, any amendment to the Declaration or Bylaws must be approved in writing by the Declarant prior to becoming effective; and during such time, Declarant shall have the unilateral right to amend the Declaration from time to time without the approval of the Association members.

3.5. Right to Notice of Claims. No Person shall retain an expert for the purpose of inspecting the design or construction of any dwelling, structure, or improvement in the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant has been first notified in writing and given an opportunity to meet with the Owner of the property to discuss the Owner's concerns and conduct its own inspection. Declarant reserves the right for itself and others it may designate to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Community, including the Lots and Common Property, and a perpetual easement of access through the Community for such purposes. No entry into a dwelling shall be permitted without the expressed consent of the Owner. Any Person exercising this right shall promptly repair, at such Person's expense, any damage resulting from the exercise thereof.

3.6. Assignment of Declarant Rights. Any and all special rights and obligations of Declarant set forth in this Declaration or the Bylaws may be transferred or assigned in whole or in part to any other Person, provided the transfer shall not reduce an obligation or enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Paulding County, Georgia land records.

ARTICLE IV

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

4.1. Membership. Every Owner shall be deemed to have a membership in the Association. This is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the

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member's spouse, but in no event shall more than one (1) vote be cast or more than one (1) office held for each Lot owned.

4.2. Voting. Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners determine among themselves. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. A member's right to vote shall automatically be suspended during any period in which a member is more than thirty (30) days delinquent on any assessment or charge, and the member shall be ineligible to vote on any matter until the member's account balance has been paid in full.

4.3. Entity Members. In the event an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary, or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Owner of the Lot. The membership rights of an Owner which is a corporation, partnership, or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

ARTICLE V

ASSOCIATION RIGHTS AND RESTRICTIONS.

5.1. Association Rights and Restrictions. The Association, acting through its Board of Directors, shall have the right and authority, in addition to and not in limitation of any other right it may have, to:

(a) make and to enforce reasonable rules and regulations governing the use of the Common Property;

(b) enforce the Declaration, Bylaws, and rules and regulations of the Association by imposing reasonable monetary fines and suspending use and voting privileges. These powers, however, shall not limit any other legal means of enforcing such documents or provisions by either the Association or, in an appropriate case, by an aggrieved Owner;

(c) grant permits, licenses, utility easements, and other easements, permits or licenses under, through or over the Common Property;

(d) control, manage, operate, maintain, replace and, in the Board's discretion, alter or improve all portions of the Community for which the Association is assigned maintenance responsibility under this Declaration;

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(e) deal with the Common Property in the event of damage or destruction as a result of casualty loss, condemnation, or eminent domain, in accordance with the provisions of this Declaration; and

(f) represent the Owners in dealing with governmental entities on matters related to the Common Property.

ARTICLE VI

ASSESSMENTS

6.1. Purpose of Assessment. The Association shall have the power to levy assessments as provided herein. Assessments shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Association and the membership, and for expenses of the Association as provided within the Declaration, and as otherwise authorized by the Board.

6.2. Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments and charges; (ii) special assessments pursuant to Section 6.6 of this Article; and (iii) specific special assessments, including reasonable fines, pursuant to Section 6.3 of this Article.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees from any prior judgment, if any), shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and the Owner's grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board. The Board of Directors may, but is not obligated to, permit assessments to be paid in monthly, quarterly, or semi-annual installments. Other than the Declarant, no Owner may be exempted from liability, or otherwise withhold payment of assessments, for any reason whatsoever.

6.3. Uniform Rate of Assessment and Specific Assessments. Annual assessments and special assessments shall be fixed at a uniform rate for all Lots. Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments as follows:

(a) Except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility hereunder, any common expenses benefiting less than all of the Lots or significantly disproportionately benefiting all Lots may be specially assessed equitably among all of the Lots which are benefited according to the benefit received.

(b) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any Lot may be specially assessed against such Lot, including attorney's fees actually incurred by the Association in enforcing the Declaration, Bylaws or Association rules and regulations, regardless of whether or not an enforcement lawsuit has been filed.

(c) Other specific assessments, including fines, against an Owner and Owner's Lot deemed reasonable by the Board.

6.4. Computation of Operating Budget and Assessment. Prior to the beginning of each new fiscal year, the Board of Directors shall (1) prepare a budget covering the estimated expenses of the Association for the upcoming new fiscal year and shall fix in the budget the amount of the annual assessment for the upcoming new fiscal year, and (2) deliver a copy of the budget to each Owner at least thirty days prior to the beginning of the new fiscal year. The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of expenses on which the Board may base the annual assessment. The Board may, but is not obligated to, permit the annual assessment to be paid in monthly, quarterly, or semi-annual installments. The budget and the assessment shall become effective unless disapproved by the majority of the total eligible vote of the Association membership at a meeting of the membership within the first ninety days of the new fiscal year. Said meeting may be the annual meeting of the members if the annual meeting is held during the first ninety days of the new fiscal year or may be at a special meeting requested in accordance with the Bylaws. If either (1) the membership disapproves the budget within the first ninety days of the new fiscal year as provided herein, or (2) the Board fails for any reason to either (a) prepare a budget and fix the amount of the annual assessment for the new fiscal year or (b) deliver the budget to the members, as provided herein, then the budget and annual assessment in effect for the current fiscal year shall continue for the upcoming new fiscal year. In the event the annual assessment is insufficient to cover the actual common expenses of the Association during any fiscal year, the Board of Directors, upon ten days notice to the members, may increase the annual assessment during such fiscal year to cover the shortfall. The fiscal year of the Association may be set by Board resolution or, in the absence thereof, shall be the calendar year.

6.5. Reserve Budget and Reserve Account. The Board may prepare an annual or multi-year reserve budget which shall take into account the number and nature of replaceable assets, the expected life of such assets, and the expected repair or replacement costs of the assets. The Board may establish a reserve account for such expected repair or replacement costs, and may fund the reserve account from collected assessments. The reserve budget shall not operate as a limitation on the expenditures of funds in the reserve account, but, rather, the Board may spend funds in the reserve account as deemed reasonable by the Board.

6.6. Special Assessments. The Board may levy a special assessment against all Lots if the budget for any fiscal year shall prove to be inadequate for such fiscal year or to pay the costs of any improvement or repair on the Common Property. Prior to becoming effective, the special assessment must be approved by the affirmative vote, written consent, or any combination of

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affirmative vote and written consent, of the Association members holding at least a majority of the total eligible votes of the Association.

6.7. Capital Contribution Assessments (Initiation Fee). Upon the conveyance of ownership of a Lot from the Declarant and from all Owners of the Lot thereafter, a capital contribution assessment (an initiation fee) shall become due and payable to the Association by each new Owner. The amount of the initiation fee shall be the same amount as the annual assessment in effect for the fiscal year in which the conveyance of ownership occurs. The initiation fee shall not be deemed to be an advance payment of any assessment and may not be paid in lieu of any assessment. The initiation fee shall be the personal obligation of the new Owner and shall constitute a lien against the Lot. Notwithstanding anything to the contrary herein, no initiation fee shall be due as a result of a conveyance of a Lot to an Owner's spouse, a person cohabitating with the Owner, or a corporation, partnership, company, or legal entity in which the Owner is a principal, and no initiation fee shall be due from any Person who takes title through foreclosure upon the lien of any first priority Mortgage covering the Lot or the lien of any secondary purchase money Mortgage covering the Lot.

6.8. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(a) If any assessment, fine, or charge is not paid in full within ten (10) days of the due date, a late charge equal to the greater of ten dollars (\$10.00) or ten percent (10%) of the amount not paid, or such higher amounts as may be authorized by Georgia law, may be imposed without further notice or warning to the delinquent Owner, and interest at the rate of ten percent (10%) per annum, or such higher rate as permitted by Georgia law, shall accrue from the due date.

(b) If partial payment of an assessment, fine, or charge is made, the amount received may be applied by the Board, in respective order, to post-judgment attorney's fee from any prior judgment, if any, then to costs and attorney's fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments.

(c) If an assessment, fine, or charge due from an Owner remains delinquent and unpaid for more than fifteen (15) days from the date due, and if the Board of Directors has permitted the assessment to be paid in monthly, quarterly, or semi-annual installments, then a notice of delinquency may be given to that Owner stating that if the unpaid assessment or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that owner's unpaid installments of the assessment. If the Owner fails to pay all amounts currently due within ten (10) days of the date of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the assessment in installments, unless reinstated in the Board's discretion. The notice of acceleration provided

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herein may be included in a complaint filed against an owner for unpaid assessments and charges.

(d) If an assessment, fine, or charge remains unpaid more than thirty (30) days after the due date, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, and Georgia law, including reasonable attorney's fees actually incurred (and including post-judgment attorney's fees from any prior judgment, if any).

(e) A member's right to vote shall automatically be suspended during any period in which a member is more than thirty (30) days delinquent on any assessment or charge, and the member shall be ineligible to vote on any matter until the member's account balance has been paid in full.

6.9. Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date of the first conveyance of ownership of an improved Lot with a certificate of occupancy from Declarant to any other Person for residential use.

6.10. Declarant's Obligation for Assessment. Declarant shall not be liable for the payment of assessments on its unsold Lots. However, Declarant may, but shall not be obligated to, elect to contribute to the Association on an annual basis the difference between the amount of assessments levied on the Lots subject to assessments and the amount of the Association's actual expenditures during the fiscal year (a "Subsidy"). Any Subsidy may be treated, in the Declarant's discretion, as either a voluntary contribution or a loan from the Declarant to the Association. A Subsidy may be evidenced by one or more promissory notes from the Association in favor of the Declarant. The payment of a Subsidy in any fiscal year shall under no circumstances obligate Declarant to continue payment of a Subsidy in future years.

6.11. Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten dollars (\$10.00) or such higher amount as may be authorized under Georgia law, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

ARTICLE VII

ARCHITECTURAL CONTROLS.

7.1. Architectural Standards. No Owner, Occupant, or any other Person may make any exterior change, alteration, modification (including exterior painting), or construction on a

Lot, nor erect, place or post any thing or object which may affect the appearance of a Lot (including, but not limited to, any fence, playground equipment, light (except for reasonable seasonal decorative lights displayed between Thanksgiving and January 15), basketball net, storm door, exterior sculpture, or fountain), nor place any object in any window which is visible from the exterior of a dwelling, without first obtaining the written approval of the Architectural Control Committee ("ACC"). All landscape borders or decorative borders on a Lot, other than rock or field stone borders and black plastic borders not extending more than four inches above the ground, shall require the prior written approval of the ACC.

The standard for approval of all improvements hereunder shall include, but not be limited to: (1) aesthetic consideration, (2) materials to be used, (3) compliance with the Community-Wide Standard, this Declaration, or design standards which may be adopted by the ACC, (4) harmony with the external design of the existing dwellings, Lots and structures, and the location in relation to surrounding dwellings, structures and topography, and (5) any other matter deemed to be relevant or appropriate by the ACC.

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require. If the ACC fails to approve, conditionally approve, or to disapprove such application within forty-five (45) days after the application and such information as the ACC may reasonably require shall have been submitted, its approval will not be required and this Article shall be deemed complied with, unless such construction, modification or improvement otherwise is in violation of the Declaration, the Bylaws, the design standards, the Association's rules and regulations, or applicable zoning ordinances.

The ACC shall be the sole arbiter of the application and may withhold approval for any reason whatsoever, including purely aesthetic considerations. The Association, acting through the Board, shall be entitled to stop any construction or modification which is not in conformance with approved plans. The ACC may publish design standards for exterior alterations or additions, and any request in compliance therewith shall be approved.

7.2. Architectural Control Committee.

(a) So long as the Declarant owns any property described in Exhibit "A" or Exhibit "B," for development or sale, the Declarant shall be the sole member of the ACC and shall have the exclusive authority to administer and enforce architectural controls under this Article. Declarant's rights under this Article may be assigned in whole or in part.

(b) Upon the expiration or assignment of Declarant's authority to control architectural review for all or a portion of the Community, the Board of Directors shall appoint the members of the ACC. The ACC shall thereafter constitute a standing committee of the Association, and the ACC shall consist of the Board unless the Board delegates to other Persons the authority to serve on the ACC. The chairperson of the ACC shall be a Board member. The ACC shall have the authority to select and employ professional consultants to assist it in

discharging its duties, the cost of such consultants to be paid by the Owner of any Lot for which an application has been submitted for approval. The Owner of any such Lot shall be responsible for paying the full costs of each review, whether or not the submitted application is approved by the ACC, and the ACC may require payment of all such costs prior to approval of the application. The ACC also may charge reasonable fees to cover the cost of review or inspections performed hereunder. At any time during the review process, so long as the Declarant owns any property described in Exhibit "A" or "B," the Declarant shall have the power to veto any decision taken by the ACC.

7.3. Appeal. In the event the ACC disapproves any application or part thereof, an Owner shall have the right to appeal the ACC's decision to the Board of Directors. The Board shall rule on the appeal within thirty (30) days of receiving written notice requesting an appeal from the Owner. In ruling on the appeal, the Board shall consider all relevant materials presented to it by either the Owner or the ACC, the decision of the ACC, and the application of the Owner to the ACC. The Board of Directors shall have the final authority to approve, disapprove, or conditionally approve or disapprove the application of the Owner. If the Board does not receive written notice from the Owner by certified mail requesting an appeal within fourteen (14) days from the date of the ACC's notice to the Owner of its decision, the decision of the ACC shall become final and all rights of appeal shall terminate and thereafter be void. All decisions of the Declarant-controlled ACC shall be final, and there shall be no appeals of decisions of the Declarant-controlled ACC.

7.4. Limitation of Liability. Review and approval of any application pursuant to this Article may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board nor the ACC shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. Neither the Declarant, Association, the Board, the ACC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner, design, or quality of approved construction or modifications to any Lot, nor may any action be brought against the Declarant, Association, the Board, the ACC, or any member thereof, for any such injury, damage, or loss.

7.5. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board and the ACC will change from time to time and that interpretation, application, and enforcement of the architectural standards may vary accordingly. The approval of either the Board or the ACC of any proposals, plans, and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the Board or the ACC, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

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7.6. Enforcement. Any construction, alteration, or other work done in violation of this Article, the Declaration, the Bylaws, the design standards or any applicable zoning regulations shall be deemed to be nonconforming. Upon written request from the Board, a violating Owner shall, at the Owner's sole cost and expense, remove such nonconforming construction, alteration, or other work and restore the property to substantially the same condition as existed prior to such construction, alteration or work. Should the Owner fail to do so, the Board or its designees shall have the right, in addition to all other available remedies, to enter the property, remove the violation and restore the property, or obtain a court order compelling the violating Owner to do so. All costs thereof, including reasonable attorney's fees, may be assessed against such Lot, regardless of whether or not litigation is filed..

In addition to the above, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Article and its decisions or those of the ACC. All costs of any such action, including reasonable attorney's fees, may be assessed against such Lot. Furthermore, the Board shall have the authority to record in the Paulding County, Georgia land records notices of violation of the provisions of this Article. The Board may also pursue any other enforcement option set forth in this Declaration.

7.7. Commencement and Completion of Construction. All improvements approved by the ACC hereunder must be commenced within one year from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. Additionally, except with written ACC approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the ACC hereunder shall be completed within 90 days of commencement. This Section shall not apply to any construction of modification performed by or on the behalf of the Declarant.

ARTICLE VIII

USE RESTRICTIONS

Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants, and Occupants comply with all provisions of this Declaration, the Bylaws, and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants, or Occupants, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants, or Occupants.

8.1. Residential Use. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Community, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in a dwelling on a Lot may conduct such ancillary business activities within that dwelling so long as (1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the dwelling; (2) the business activity does not involve visitation of the Lot by employees, clients, customers, suppliers, or other business invitees; provided, however, this provision shall not preclude delivery of materials or items by United States Postal delivery or by other customary parcel delivery services (U.P.S., Federal Express, etc.); (3) the business activity conforms to all zoning requirements for the Community; (4) the business activity does not increase traffic in the Community; (5) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and (6) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this Article. The activities of the Declarant shall not be subject to this Section.

8.2. Number of Occupants.

(a) The maximum number of occupants in a dwelling on a Lot shall be limited to two (2) people per bedroom in the dwelling as originally constructed. "Occupancy," for purposes hereof, shall be defined as staying overnight in a dwelling for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

(b) If an Owner of a Lot is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the natural person(s) who will occupy the dwelling on the Lot. The designated person(s) to occupy the dwelling may not be changed more frequently than once every six (6) months.

8.3. Vehicles and Parking. No Owner or Occupant may keep more than a reasonable number of vehicles per Lot at any time. The Board may adopt reasonable rules limiting the

number of vehicles which may be parked on a Lot. Vehicles may only be parked in garages, driveways or other areas authorized in writing by the Board. Vehicles shall not be parked on any lawn, yard, or street.

Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. Each garage should be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible.

Disabled and stored vehicles are prohibited from being parked in the Community except in garages. For purposes of this Section, a vehicle shall be considered "disabled" if it does not have a current license tag or is inoperable. A vehicle shall be considered "stored" if it remains in a location, other than in a garage, without prior written Board permission, for fourteen (14) consecutive days or longer or if it is covered for more than two (2) consecutive days with a car cover or tarp.

Boats, trailers, trucks with a load capacity of one (1) ton or more, full-size vans (excluding mini-vans or utility vehicles used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tool boxes or tool racks), and vehicles with commercial writings on their exteriors are prohibited from being parked in the Community, except in garages or other areas designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on a Lot or the Common Property during normal business hours for the purpose of serving the Lot or the Common Property; provided, that, without the written consent of the Board, no such vehicle shall be authorized to remain on a Lot or the Common Property overnight or for any purpose except serving a Lot or the Common Property.

If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's rules and regulations, the Board may send a notice to the vehicle owner or user, or place a notice on the vehicle, specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of a person to contact regarding the alleged violation and shall include the name and telephone number of the person or entity which will do the towing or booting. If twenty-four (24) hours after such notice is placed on the vehicle, or three (3) days after the notice has been sent to the owner, the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed or booted in accordance with this Section, neither the Association nor any director, officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or

booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

8.4. Pets. No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Community. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors in unfenced areas. Dogs may not be left unattended while leashed or tethered to any post, tree, or object. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on a Lot without prior written ACC approval.

Feces left by any pet on the Common Property, on any Lot, or in any dwelling, including the pet owner's Lot or dwelling, or anywhere in the Community must be removed promptly by the owner of the pet or the person responsible for the pet. Fines may be imposed to enforce this provision.

No potbellied pigs may be brought into or kept in the Community at any time. No dog determined in the sole discretion of the Board to be a dangerous dog may be brought into or kept in the Community at any time by any Lot Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the Board's sole discretion, must be permanently removed from the Community upon seven (7) days written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner.

Any Owner or Occupant who keeps or maintains any pet on any portion of the Community shall be deemed to have indemnified and agreed to hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Community.

8.5. Fences. No chain link fence or cyclone fences may be placed in the Community, except by the Declarant. All fences must first be approved by the ACC before the commencement of any installation of the fence. Any fence on a Lot, including any electric fence or "invisible fence" for the confinements of pets, shall be placed along the rear property line of the Lot or within six inches into the Lot parallel to the rear property line and shall be placed along each side property line or within six inches into the Lot parallel to each side property line; provided, however, in the event of an obstruction, including, but not limited to, a creek, swale, drainage opening, or drainage easement, the ACC in its discretion may approve an alternative location for the fence on the Lot; but in no event may a fence be placed farther forward toward the street on which a dwelling on the Lot fronts than the rear-most portion of the dwelling.

8.6. Window Treatments. Unless otherwise approved in writing by the Board, all windows in a dwelling that face toward the street shall have window treatments, and any portion of any window treatment in a dwelling that is visible from outside of the dwelling shall be white or off-white in color. Sheets, blankets, towels, flags, and other such items shall not be placed in any window or in way used as window treatments.

8.7. Antennas and Satellite Dishes. No transmission antenna of any kind may be erected anywhere in the Community without written approval of the ACC. No satellite dish, direct broadcast satellite (DBS) antenna, or multi-channel multi-point distribution service (MMDS) larger than one meter in diameter shall be placed, allowed, or maintained upon any portion of the Community, including a Lot. Satellite dishes and DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association authorized by the FCC, both as may be amended from time to time. Such items shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal. Except as provided by this Section, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Community, whether attached to a home or structure or otherwise.

8.8. Abandoned Personal Property. Personal property is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written Board permission. Neither the Association nor any director, officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal and/or discard of the personal property after such twenty-four (24) hour period.

8.9. Use of Common Property. There shall be no obstruction of the Common Property, nor shall any vehicle or anything else be kept, parked or stored on any part of the Common Property without prior approval of the Board.

With prior written Board approval, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Property for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Property hereunder shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Property and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

8.10. Prohibition of Damage, Nuisance and Noise. Noxious, destructive, offensive, or unsanitary activity shall not be carried on within the Community. No Lot Owner or Occupant may use or allow the use of the Lot or any portion of the Community at any time, in any way, which may endanger the health or property of other Occupants, unreasonably annoy, disturb or

cause embarrassment or discomfort to other Owners or Occupants, or, in the Board's discretion, constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Community. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

(a) Any screaming, shouting, excessively loud talking, whistling, or playing of music or television if such conduct can be heard in the normal course of activities in any other dwelling;

(b) Any fighting, raucous behavior or insobriety if such conduct can be heard in the normal course of activities in any other dwelling;

(c) The use of any alarm, equipment, or devise, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations at any time if such sounds can be heard or vibrations felt in the normal course of activities in any other dwelling;

(d) Any threatening or intimidating conduct towards any resident, guest, or pet in the Community;

(e) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property or which creates any threat to health or safety of any other resident or pet;

(f) Any excessively loud play or playground activities at any time if such conduct can be heard in the normal course of activities in any other dwelling;

(g) Any conduct which creates any noxious or offensive odor at any time if such odors can be detected in the normal course of activities from any other Lot;

(h) Any similar action or activity which interferes with the peaceful use and enjoyment of other dwellings or the Common Property by any Owner, member of the Owner's family, guests, invitees, or Occupants; or

(i) Any construction or similar activities which can be heard in other dwellings between the hours of 9:00 p.m. and 7:00 a.m, other than construction activity of or on behalf of the Declarant.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with the Owner's property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association

intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association for failure to enforce the provisions hereof.

8.11. Weapons and Fireworks. The display or use of fireworks or weapons on the Common Property are prohibited; provided, however, that the display of lawful firearms on the Common Property is permitted by law enforcement officers. The term "weapons" shall include those items listed in Georgia Code Section 16-11-127.1. The term "fireworks" shall include those items as listed in Georgia Code Section 25-10-1.

8.12. Signs. Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain in the Community without the prior approval of the Board or its designee, except that two (2) professional security signs not to exceed ten inches (10") by ten inches (10") each in size may be displayed on a Lot or from within a dwelling on a Lot and one (1) professionally lettered "For Sale" sign not to exceed two feet (2') by two feet (2') in size may be displayed on a Lot or from within a dwelling on a Lot being offered for sale. The Board shall have the right to erect reasonable and appropriate signs on the Common Property on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time. No "For Lease" sign or political sign shall be allowed on a Lot without the approval of the Board. No "For Sale" signs or directional signs shall be permitted on the Common Property without the approval of the Board.

8.13. Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate on a Lot or in a dwelling. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. The Board may establish rules and regulations regarding the storage location of trash bags, trash cans, and receptacles and the placement of same for pick-up.

8.14. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community, except in a dwelling or garage with the garage door shut. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and similar items may be kept outside of a dwelling.

8.15. Impairment of Dwellings and Easements. An Owner shall not undertake any act or work that will impair the structural soundness or integrity of another dwelling or impair any easement, nor do any act nor allow any condition to exist which will adversely affect other Lots or their Owners or Occupants.

8.16. Erosion Control. No activity which may create erosion or siltation problems anywhere in the Community shall be undertaken, except construction activities undertaken by Declarant or on its behalf.

8.17. Subdivision of Lots. No Lot may be subdivided into a smaller Lot.

8.18. Garage Sales. No garage sale, yard sale, or similar activity shall be conducted in the Community without prior approval of the Board. The Board may additionally permit Community garage sale or yard sale days.

ARTICLE IX

LEASING

9.1. Definition. "Leasing," for purposes of the Declaration, is defined as the regular, exclusive occupancy of a Lot by any natural person or persons other than the Owner; provided, however, leasing shall not include exclusive occupancy by the spouse, child or parent of an Owner and shall not include the occupancy by a roommate of an Owner who occupies the Lot as such Owner's primary dwelling.

9.2. Leasing Provisions. Leasing shall be governed by the following provisions:

(a) General. Lots may be leased only in their entirety; no fraction or portion may be rented. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. All leases shall be for a period of at least six months, except with written Board approval. Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people who will occupy the Lot. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(b) Liability for Assessments and Compliance With Declaration, Bylaws, and Rules and Regulations. Any lease of a Lot in the Community shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this covenant on the Lot. Any lessee, by occupancy of a Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1) Liability for Assessments. Lessee agrees to be personally obligated for the payment of all assessments and all other charges against the Lot or Owner which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate

provisions of the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Lot Owner from any obligation, including the obligation for assessments, for which the Owner would otherwise be responsible.

When a Lot Owner who is leasing a Lot fails to pay any assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Lot Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon demand by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges, as lawfully determined and made payable during the remaining term of the lease and any other period of occupancy by lessee following such demand. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's demand to pay assessments or other charges to the Association, lessee shall be obligated to pay to the Association all late charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney's fees actually incurred, to the same extent lessee would be required to make such payments to the Association if lessee were the owner of the premises during the term of the agreement and any other period of occupancy by lessee, and including all amounts paid by lessee to lessor following the date of such demand from the Board.

(2) Compliance with Declaration, Bylaws, and Rules and Regulations.

Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests in order to insure compliance with the foregoing. Lessee acknowledges that the violation by lessee or any occupant living with lessee of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under the lease. Owner shall cause all occupants of the Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule and regulation for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner; provided, however, if a fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Board of the lessee's failure to do so. Unpaid fines shall constitute a lien against the Lot. Any lessee charged with a violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by lessee, any occupant, or any person living with lessee is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates

and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee on behalf and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

(3) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property, including, but not limited to, the use of any and all recreational facilities and other amenities.

ARTICLE X

MAINTENANCE RESPONSIBILITY

10.1. Owner's Responsibility. Each Owner shall maintain and keep the Owner's Lot and dwelling in good repair, condition, and order, including, but not limited to, exterior painting, repairs, mowing, edging, weeding, trimming, and keeping planting beds in good condition and free of weeds. In addition, each Owner shall maintain any public right of way located between the Owner's Lot and the curb of the street(s) bordering such Lot. Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Each Owner shall perform the Owner's responsibility hereunder in such manner so as not to unreasonably disturb other Lot Owners.

If the Board determines that any Owner has failed or refused to discharge properly the Owner's obligation with regard to the maintenance of the Owner's Lot or the repair or replacement of items of which the Owner is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board. Unless the Board determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be an assessment and lien against the Owner and the Lot.

If, during the course of performing the maintenance of an Owner's Lot, the Association discovers that maintenance, repair, or replacement is required of an item which is the Owner's

responsibility, and such maintenance, repair, or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's expense without prior notice to the Owner.

In the event the Board exercises such self-help as provided herein, and in the event further self-help is deemed necessary by the Board within the following six (6) months, the Board may exercise such self-help without further notice to the Owner, and all costs shall be an assessment and lien against the Owner and the Lot.

The Board may alternatively enforce this Article through monetary fines against the Owner or Occupant of the Lot, and each day the maintenance, repair, or replacement is not completed shall constitute a separate violation for which fines may be assessed on a daily basis.

10.2. Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and placement of all landscaping grass areas, paving and other improvements situated on the Common Property. The Association shall also maintain and keep in good repair all water and sewer pipes or facilities which serve the Common Property, to the extent that such pipes and facilities are not maintained by public, private, or municipal utility companies.

ARTICLE XI

EASEMENTS

11.1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to trees or the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point.

11.2. Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to the Owner's Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, the Owner's family, tenants, guests, and invitees;

(b) the right of the Association to suspend the right of an Owner to use the recreational facilities in the Community for any period during which any assessment against the Owner or Owner's Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

(c) the right of the Association to borrow money as may be set forth in the Bylaws; provided, however, the lien and encumbrance of any such mortgage given by the Association against the Common Property shall be subject and subordinate to any rights, interests, options, easements, and privileges herein reserved or established for any Lot or Lot Owner; and

(d) the right of the Association to grant permits, licenses, or easements across the Common Property.

Any Lot Owner may delegate the Owner's right of use and enjoyment in and to the Common Property and facilities located thereon to the members of the Owner's family, or to the Owner's tenants and guests, and shall be deemed to have made a delegation of all such rights to the Occupants of the Owner's Lot if leased.

11.3. Easements for Utilities. There is hereby reserved to the Declarant and the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association may have installed to serve the Community. It shall be expressly permissible for the Declarant or the Association to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or the Board on behalf of the Association shall have the right to grant such easement.

11.4. Easement for Entry. The Association shall have an easement to enter onto any Lot for emergency, security, safety, and for other purposes reasonably necessary for the proper maintenance and operation of the Community, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any violation of the Declaration, Bylaws, or rules and regulations of the Association and any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board. No entry into a dwelling shall be permitted without the expressed consent of the Owner.

11.5. Easement for Construction and Sales. So long as the Declarant owns any property described in Exhibit "A" or Exhibit "B," for development or sale, the Declarant reserves an easement across the Community for Declarant and any builder approved by Declarant to maintain and carry on development activities upon such portion of the Community as Declarant may reasonably deem necessary. This easement shall include an easement for such facilities and activities which in the sole opinion of Declarant may be required, convenient, or incidental to the development, construction, and sales activities related to the property in or near the Community. This easement shall include, without limitation, the following:

(a) The right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in any portion of the Community as well as upon any Lot in the Community;

(b) The right to tie into any portion of the Community with driveways, parking areas, roads, and walkways;

(c) The right to tie into or otherwise connect and use (without a tap-on or other fee for doing so), replace, relocate, maintain, and repair any device which provides utility or similar services;

(d) The right to place directional or marketing signs on any portion of the Community, including upon any Lot or the Common Property; and

(e) The right to construct and operate business offices, signs, construction trailers, model homes, and sales offices incidental to its construction, development and sales activities.

11.6. Fence Easement. Declarant hereby reserves an easement to itself and the Association across any Lot which borders the perimeter of the Community and any Lot that borders or contains a portion of any water facility, detention pond, or retention pond for the purpose of erecting a fence. The Owner of a Lot on which any portion of a fence is located shall be responsible for the maintenance and repair of the fence as part of the Owner's maintenance obligations; provided, however, the Declarant may, but is not obligated to, repair and maintain any fence installed by or on the behalf of the Declarant.

11.7. Drainage Easement. Declarant shall have an easement across the Community for the purpose of altering drainage and water flow across any property in the Community, including the Lots. This right shall include altering swales, installing drains, drainage ditches, pipes, inlets, and alerting, channeling, or piping waterflow. Rights exercised pursuant to this easement shall be exercised with a minimum interference to the quiet enjoyment of affected properties.

11.8. Easement for Entrance Sign and Landscaping. The Association shall have an easement over any portion of a Lot on which any entrance feature, including, but not limited to, the Community sign and landscaping, are located. The Association shall be solely liable for the

maintenance, repair and replacement of the entrance features, landscaping, and annual flowers. The Association shall additionally have an easement for the installation and maintenance of utility and water lines across the Lot to the entrance features.

ARTICLE XII

SALE OF LOTS

12.1. Grantor's Obligation for Notice. A Lot Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give the Board written notice of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish the Board, as part of the notice, the name and address of the intended grantee and such other information as the Board may reasonably require. This Article shall not be construed to create a right of first refusal in the Association or in any third party.

12.2. Grantee's Obligation for Notice. Within seven (7) days after receiving title to a Lot, the grantee of the Lot shall give the Board written notice of such ownership of the Lot. Upon failure of a Owner to give the required notice within the seven (7) day period provided herein, the Board may levy a fine against the Lot and Owner thereof, and assess the Owner for all costs incurred by the Association in determining the Owner's identity:

ARTICLE XIII

INSURANCE

13.1. Hazard Insurance on Common Property. The Association's Board or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Property. The insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

13.2. Association Liability and Directors' and Officers' Liability Insurance. The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least one million (\$1,000,000.00) dollars.

13.3. Premiums and Deductible on Association Policies. Premiums for all insurance obtained by the Association shall be a common expense of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face

amount of the policy in determining whether the insurance at least equals the full replacement cost.

13.4. Policy Terms. All such insurance coverage obtained by the Board shall be written in the name of the Association. Such insurance shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in Georgia.

(b) All policies on the Common Property shall be for the benefit of the Association and its members.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(e) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies should be reviewed annually by one or more qualified persons.

(f) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) a waiver of subrogation by the insurer as to any claims against the Board, the Association's manager, if any, the Owners and their respective tenants, servants, agents, and guests;

(2) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(3) a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any one or more individual Owners, and a provision that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal due to any defect or conduct of any director, officer, or agent of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time for the required cure to be performed;

(4) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(5) that no policy may be canceled or substantially modified or subjected to nonrenewal without at least thirty (30) days prior written notice to the Association.

13.5. Individual Lot Owner Insurance. Each Owner shall carry blanket all-risk casualty insurance, if reasonably available, or if not reasonably available, fire and extended coverage, on the Owner's Lot and structures constructed thereon meeting the same requirements as set forth in this Article for insurance on the Common Property. Each Owner further covenants and agrees that, in the event of damage and destruction of structures on his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration, unless a determination not to rebuild is made by the Lot Owner in cases of substantial damage or destruction. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. If the structure is totally destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

ARTICLE XIV

REPAIR AND RECONSTRUCTION

14.1. Common Property. In the event of damage to or destruction of all or any part of the Common Property insured by the Association as a result of fire or other casualty, unless eighty percent (80%) of the Lot Owners vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the damaged part of the Common Property.

14.2. Cost Estimates. Immediately after a fire or other casualty causing damage to the Common Property, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Lot) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

14.3. Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment shall be made against all of the Lot Owners without the necessity of a vote of the members or compliance with Article VI, Section 6.6 above. If, after repair and reconstruction is completed, there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

14.4. Damage to or Destruction of Dwellings on Lots. In the event of damage to or destruction of structures on a Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article VII above, unless a determination not to rebuild is made by the Lot Owner in cases of substantial damage or destruction. If the structure is substantially destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and, thereafter, the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

ARTICLE XV

MORTGAGEE'S RIGHTS

15.1. Foreclosure. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the first Mortgage, it shall not be liable for assessments or charges by the Association chargeable to such Lot which became due prior to such acquisition of title. Such acquirer shall be responsible for all charges accruing subsequent to the passage of title.

15.2. Eligible Mortgage Holder. A Mortgage Holder shall become an Eligible Mortgage Holder if the Mortgage Holder provides to the Association in writing its name, address, and phone number, as well as the address of the Lot and name of the Lot Owner to which it holds a Mortgage. Upon becoming an Eligible Mortgage Holder, an Eligible Mortgage Holder shall be entitled to timely written notice of the following:

- (i) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Owner of any other obligation under this Declaration which is not cured within sixty (60) days; or
- (ii) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

15.3. Financial Statement. Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

15.4. Non-Impairment. Notwithstanding anything to the contrary herein contained, the provisions of this Declaration governing sales and leases shall not apply to impair the right of any first Mortgagee to: (i) foreclose or take title to a Lot pursuant to remedies contained in its

Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

15.5. HUD/VA Approval. As long as the Declarant has the right to appoint and remove directors and officers of the Association, the following items shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either agency is insuring or guaranteeing the Mortgage on any Lot: (i) Mortgage consolidation, (ii) dissolution of the Association, (iii) annexation of property other than the Additional Property on Exhibit "B," (iv) dedication or conveyance of the Common Property to any party other than the Association, or mortgaging the Common Property; or (v) any material amendment to the Declaration or Bylaws.

ARTICLE XVI

AMENDMENTS

16.1. General. Subject to Section 16.2 of this Article, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of the Association members holding at least two-thirds (2/3) of the total eligible vote of the Association. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and filed in Paulding County, Georgia land records.

16.2. Approval of Declarant. Until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person for residential use, any amendment to the Declaration or Bylaws must be approved in writing by the Declarant prior to becoming effective; and during such time, Declarant shall have the unilateral right to amend the Declaration from time to time without the approval of the Association members.

16.3. Georgia Property Owners' Association Act. After the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person for residential use, the majority of the then current Board of Directors, without the approval of the Association members, may record an amendment to submit the Declaration to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq.

16.4. Limitation Period. If legal action is not instituted to challenge the validity of any amendment to the Declaration or Bylaws within one (1) year of the recording thereof in the Paulding County, Georgia land records, then any such amendment shall be presumed to be validly approved and adopted. This limitation period shall not apply to any challenge by the Declarant.

ARTICLE XVII

GENERAL PROVISIONS

17.1. Enforcement. In addition to any other enforcement right set forth within the Declaration or Bylaws, the Association, acting through the Board of Directors, shall have the right to enforce any violation of the Declaration, Bylaws or rules and regulations of the Association by a proceeding at law or in equity, or as otherwise provided herein. Owners may enforce the Declaration against other Owners by a proceeding at law or in equity.

(a) Fines and Suspensions of Use. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, for any violation of the Declaration, Bylaws, or any Association rules and regulations. The Board shall further have the power to suspend the use of any Common Property for any violation of the Declaration, Bylaws, or any Association rules and regulations. If any Occupant violates the Declaration, Bylaws or Association rules and regulations and a fine is imposed, the fine may be imposed against the Owner and/or Occupant. The Board may establish and promulgate a fining schedule. The Board shall not impose a fine or suspend the right to use the Common Property, unless and until the Board has sent or delivered written notice to the Owner or Occupant as provided herein.

(1) Notice. If any provision of the Declaration or Bylaws or any Association rule or regulation is violated, the Board shall send the violating Owner or Occupant written notice identifying the violation and fine and/or suspension being imposed and advising the Owner or Occupant of the right to request a hearing before the Board to contest the violation or the fine and/or suspension or to request reconsideration of the fine and/or suspension. Fines and suspensions may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the Owner or Occupant's right to request a hearing before the Board to challenge the fine and/or suspension. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the Owner or Occupant.

(2) Hearing. If a written request for a hearing is received from the Owner or Occupant within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the Owner or Occupant a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time. Failure to request a timely hearing as provided herein shall result in loss of the right to challenge and request reconsideration of the fines or suspension.

(b) Suspension of Voting. A member's right to vote shall automatically be suspended during any period in which a member is more than thirty (30) days delinquent on any

assessment or charge or during any period in which the member is in violation of the Declaration. The Association shall not be required to provide any notice to such member that the member's voting rights have been automatically suspended.

(c) Abatement and Self-Help. The Board or its designee may enter upon a Lot to exercise self-help in order to remove or abate any violation thereon of the Declaration; provided, however, the Board shall first provide the Owner of the Lot ten (10) days notice of the Board's intention to enter the Owner's Lot and provide the Owner with an opportunity to remove or abate the violation, provided further, such notice shall not be required if the Board determines that an emergency exists. All costs of self-help or of otherwise enforcing the Declaration, Bylaws or Association rules, including reasonable attorney's fees actually incurred, shall be assessed against the Owner, Occupant and/or Lot subject to the violation.

(d) Notice of Violation. The Association shall have the authority to record in the Paulding County, Georgia land records a notice of violation identifying an uncured violation of the Declaration, Bylaws, or rules and regulations regarding a Lot.

(e) Enforcement Costs. The Owner or Occupant responsible for a violation shall be liable for all costs incurred in enforcement, including reasonable attorney's fees actually incurred, whether or not a legal proceeding in law or equity is filed in connection with the violation. The costs shall become a lien against the owner's Lot.

(f) Waiver. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

17.2. Duration. The covenants, conditions, restrictions, and easements within the Declaration shall run with and bind the property subject to this Declaration perpetually or as otherwise provided by Georgia law.

17.3. Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety in the Community; however, each Owner, for itself, himself or herself and its, his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in the Community. It shall be the responsibility of each Owner to protect its, his or her person and property and all responsibility to provide security shall lie solely with each Lot Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

17.4. Dispute Resolution. Any Lot Owner or Occupant must give written notice to the Declarant or Board requesting a hearing with the Declarant or Board and attend such hearing to discuss amicable resolution of any dispute against the Declarant or Association, respectively, before that Owner or Occupant files any lawsuit against the Declarant, the Association, the Board, or any officer or director, or any agent of same. The Owner or Occupant shall, in such

notice and at the hearing, make a good faith effort to explain the grievance and resolve the dispute in an amicable fashion, and shall give the Declarant or Association a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Declarant or Association shall give notice of the date, time, and place of the hearing to the Person requesting the hearing. The Declarant or Association shall schedule the hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the Person requesting the hearing.

17.5. No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status, or handicap.

17.6. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

17.7. Eminent Domain. If all or any part of the Common Property shall be taken or conveyed in lieu of or under threat of condemnation by any authority having power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking at least seventy-five percent (75%) of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining Common Property to the extent land is available therefor.

17.8. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

17.9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision, which shall remain in full force and effect.

BK2010PG0710

17.10. Preparer. This Declaration was prepared by John T. Lueder, The Lueder Law Firm, LLC, 2050 Marconi Drive, Suite 300, Alpharetta, Georgia 30005.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this ^{19~~th~~} day of October, 2005.

DECLARANT:

McBRIDE & SON HOMES
ATLANTA, LLC

By: [Signature]

Its: PROPERTY

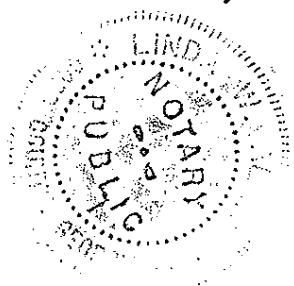
Attest: [Signature]

Sworn to and subscribed before me
this 19 day of October, 2005

Witness: [Signature]

[Signature]
Notary Public
MY COMMISSION EXPIRES JULY 19, 2007

RECORDED 10-25 20 05
TREVA W. SEZELTON, CLERK
SUPERIOR COURT, PAULDING CO.



BK 2010PG0711

EXHIBIT "A"

Land Submitted to the Declaration

All that land situation, lying and being in the 2nd District, 3rd Section of Paulding County, Georgia and being a part of Land Lot 550 and being more delineated by the following plats of survey which are specifically incorporated herein by this reference:

Darby's Run – Phase I prepared by Carlton Rakestraw & Associates and recorded in Plat Book 43, Page 129 *et seq.* and Plat Book 45, Page 139 *et seq.* of the Paulding County, Georgia land records.

Darby's Run – Phase II prepared by Carlton Rakestraw & Associates and recorded in Plat Book 45, Page 90 *et seq.* of the Paulding County, Georgia land records.

BK2010PG0712

EXHIBIT "B"

Additional Property

Any property located within one (1) mile radius from any property included in Exhibit "A" of this Declaration.